

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064
TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)

WRITER'S DIRECT DIAL NUMBER

(212) 373-3118

WRITER'S DIRECT FACSIMILE

(212) 492-0118

WRITER'S DIRECT E-MAIL ADDRESS

lelynch@paulweiss.com

UNIT 5201, FORTUNE FINANCIAL CENTER
5 DONGSHANHUAU ZHONGLU
CHAOYANG DISTRICT, BEIJING 100020, CHINA
TELEPHONE (86-10) 5828-6300

HONG KONG CLUB BUILDING, 12TH FLOOR
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, UNITED KINGDOM
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W. ABBOTT
EDWARD T. ACKERMAN
JACOB A. ADLERSTEIN
JULIA ALEXANDERSON
ALLAN J. ARFFA
JONATHAN N. ASHTOR
ROBERT A. ATKINS
DAVID J. BALL
SCOTT A. BARSHAY
PAUL M. BASTA
JULIA V. BENGHAM
LYNN B. BINARY
CRAIG A. BENSON
MARIS A. BERGMAN
DAVID M. BERNICK
JOSEPH J. BIAL
BRUCE BIRENBOIM
HEATHER C. BOEHNING
ANGELA BONVINO
ROBERT BRITTON
DAVID W. BROWN
SUSANNA M. BUERGEL
JESSICA S. CAREY
DAVID CARMONA
GOFFredo CEPPIGA
ELLEN N. CHING
WILLIAM A. CLAREMAN
LEWIS R. CLAYTON
YAHONNES CLEARY
RACHAEL G. COFFEY
JAY COHEN
KAREN S. CORNISH
CHRISTOPHER J. CUMMINGS
THOMAS V. DE LA BASTIDE III
MEREDITH DEARBORN**
ARIEL J. DECKELBAUM
KAREN L. DUNN
ALICE BELISE EATON
ANDREW J. ERLICH
GREGORY A. EZRING
ROSS A. FIELDSTON
ANDREW C. FINCH
BRAD J. FINKELESTEIN
CHARLES P. FINNEGAN
ROBERTO J. FIRE
PETER E. FINCH
HARRIS FISCHMAN
ANDREW J. FOLEY
ANDREW J. FORMAN*
HARRIS B. FREIDUS
CHRISTOPHER D. FREY
MANUEL S. FRAY
ANDREW S. GAINES
KENNETH A. GALLO
MICHAEL E. GERTZMAN
ADAM M. GIVERTZ
SALVATORE GOGLIORMELLA
NEIL GOODMAN
MICHAEL GOODMAN
ROBERTO J. GOLDSTEIN
ROBERTO J. GONZALEZ*
CATHERINE L. GOODALL
ERIC GOODISON
CHARLES H. GOODE, JR.
ANDREW G. GORDON
BRIAN S. GROVE
UDI GROTH
NICHOLAS GROOMBRIDGE
BRUCE A. GUTENPLAN
ALAN S. HALPERIN
CLAUDIA HAMMERMAN
BRIAN S. HERMANN
MICHELLE HIRSHMAN
ROBERT E. HOGO
DAVID S. HUNTINGTON
AMRAN HUSSEIN
LORETTA A. IPPOLITO
WILLIAM A. ISAACSON*
JAREN JANGHORBANI
BRIAN J. JARMIN
JEH C. JOHNSON
MEREDITH J. KANE
JONATHAN S. KANTER
BRAD S. KARP
PATRICK N. KARSNITZ
JOHN C. KENNEDY

BRIAN KIM
KYLE J. KIMPLER
ALEXIA D. KIMBERG
ALAN W. KINNEMAN
DAVID J. KRAMER
CAITH KUSHNER
DAVID K. LAKHDHIR
JOHN E. LANGER
GREGORY F. LAUFER
BRIAN C. LAVIN
XIAOQI GREG LIU
LORETTA E. LYNCH
JEFFREY D. MARELL
MARCO V. MASOTTI
DAVID W. MAYO
ELIZABETH R. MCCOLM
JEAN M. MCLOUGHLIN
ALFRED J. MELERA
MARK F. MENDELSON
CLAUDETTE MEREDITH-GOUJON
WILLIAM B. MICHAEL
JUDIE NG SHORTELL*
CATHERINE NYARADY
JAMES B. O'BRIEN
ALEX O'ROUGUE, OH
BRAD R. OKUN
KELLEY D. PARKER
LINDSAY B. PARKS
ANDREW M. PARLEN
CHARLES J. PESANT
JESSICA E. PHILIPS*
VALERIE A. POWELLER
JEFFREY J. RECHER
CARL J. REISNER
LORIN L. REISNER
JEANNIE S. RHEE*
WALTER G. RICCIARDI
WILLIAM ROSENMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
JUSTIN ROSENBERG
JACQUELINE P. RUBIN
CHARLES F. "RICK" RULE*
RAPHAEL M. RUSSO
ELIZABETH M. SACKSTER
JEFFREY D. SAMERSTEIN
JEFFREY B. SAMUELS
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JOHN M. SCOTT
BRIAN SCRIBANI
KYLIE S. SEIFERD
KANNON K. SHANMUGAM*
AUDRA J. SOLOWAY
SCOTT M. SONTAG
SARAH STASNAY
TARIK M. STEWART
ERIC ALAN STONE
AINE T. SWANSON
BRETTE TANNENBAUM
RICHARD C. TARLOWE
MONICA K. THURMOND
DANIEL J. TOAL
LAURA C. TURANO
CONRAD VAN LOGGERENBERG
LISA M. VELASQUEZ
MICHAEL VOGEL
RAMY J. WAHBEH
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
LINDSEY L. WIERSMA
STEPHEN WILLIAMS
LAWRENCE WITDORFICH
AUSTIN WITT
MARK B. WLAZLO
JULIA TARVER MASON WOOD
JENNIFER H. WU
BETTY YAP*
JOSEPH E. YARETT
KAYE N. YOSHINO
TONG YU
TRACEY A. ZACCONE
TAURIE M. ZETTER
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR
**ADMITTED TO THE CALIFORNIA BAR

October 29, 2020

VIA ECF

Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference log data from both parties. I continue to be in communication with the Federal Defenders, Inc. and their

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the parties, MCC scheduled 150 calls between October 22 and October 29, 2020. 140 calls were completed, four were attempted but not completed, one was rescheduled by the requesting attorney, and five were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 226 calls between October 22 and October 29, 2020. 195 calls were completed, 12 were attempted but not completed, nine were rescheduled or cancelled by the requesting attorney, and ten were not completed for unknown reasons. We are working with the institution to obtain more information about these calls. Federal Defenders report that two call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical issues this week.

¹ I held a joint mediation call with the parties on October 27, 2020.

III. Videoconferencing

A. MCC

According to the information received from the parties, MCC scheduled 30 videoconferences between October 22 and October 29, 2020. 27 were completed as scheduled and three were not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some scheduling and technical issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 41 videoconferences between October 22 and October 29, 2020. 38 were completed as scheduled, one was attempted but not completed, one was rescheduled by the requesting attorney, and one was not completed for unknown reasons. We are working with the institution to obtain more information about these VTCs. Federal Defenders report that 11 VTC requests were pending for longer than 48 hours. Additionally, Federal Defenders report some technical issues this week.

IV. In-Person Visits

Both institutions continue to provide in person visits by appointment. The parties continue to discuss information regarding the MDC's HVAC system, with testing results for visiting areas in the West Wing provided last week. The MDC is working to schedule testing in the East Wing and SHU. The parties continue to discuss the issue of additional testing. The MDC has also provided a protocol to ensure that inmates returning from court into quarantine have their legal materials with them during that period, as well as a protocol for providing remote access over weekends and holidays. The parties also discussed the issue of facility staff not wearing masks or wearing masks improperly. The MDC has elevated the issue to the Warden, who is addressing the issue. I will continue to work with the parties in their ongoing discussions.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)
Sean Greene, U.S. Attorney's Office (E.D.N.Y.)
Matthew J. Modafferi, U.S. Attorney's Office (E.D.N.Y.)

Jeffrey Oestericher, U.S. Attorney's Office (S.D.N.Y.)
David Jones, U.S. Attorney's Office (S.D.N.Y.)